

CHAPTER XIV. PUBLIC OFFENSES

Article 1.	Anti-Litter
Article 2.	General Provisions
Article 3.	Offenses Against Persons and Property
Article 4.	Offenses Against Peace and Good Order
Article 5.	Offenses Affecting Administration of Justice
Article 6.	Offenses Against Morals and Decency
Article 7.	Miscellaneous Offenses
Article 8.	Curfew
Article 9.	Drug Paraphernalia
Article 10.	Graffiti
Article 11.	Disorderly House Nuisance

ARTICLE 1. ANTI-LITTER

14-101

SHORT TITLE.

This Article shall be known and may be cited as the "Lawrence Anti-Litter Ordinance." (Code 1979, 14-101)

14-102

DEFINITIONS.

For the purposes of this Article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (A) Aircraft is any contrivance now known or hereafter invented, used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.
- (B) Authorized private receptacle is a litter storage and collection receptacle as required and authorized in Sections 9-403:406 of this Code.
- (C) City is the City of Lawrence, Kansas.
- (D) Commercial handbill is any printed or written matter, any sample or device, ledger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature:
 - (1) Which advertises for sale any merchandise, product, commodity, or thing; or
 - (2) Which directs attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
 - (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit; but the terms of this clause shall not apply where an admission fee

is charged or a collection is taken up for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition, or event of any kind, when either of the same is held, given or takes place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order: Provided, That nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition, or event of any kind, without a license, where such license is or may be required by any law of this state, or under any ordinance of this City; or

- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for advertising purposes, or for the private benefit and gain or any person to engaged advertiser or distributor.
- (E) Garbage is putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- (F) Litter is garbage, refuse and rubbish as defined herein and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.
- (G) Newspaper is any newspaper of general circulation as defined by general law, any newspaper duly entered with the post office department of the United States, in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year, and sold to the public.
- (H) Non-Commercial Handbill is any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill of newspaper.
- (I) Park is a park, reservation, playground, beach, recreation center or any other public area in the City, owned or used by the City, and devoted to active or passive recreation.
- (J) Person is any person, firm, copartnership, association, corporation, company or organization of any kind.
- (K) Private property or private premises is any dwelling, house, building or other structure, designed or used wholly or in part for private residential purposes or commercial purposes or industrial purposes, whether vacant or not, and shall include any yard, grounds, parking area, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.
- (L) Public place is any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds and building.

- (M) Refuse is all putrescible and nonputrescible solid wastes (except body wastes, including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and parts thereof, solid market and industrial wastes and construction wastes.
- (N) Rubbish is nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.
- (O) Vehicle is every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks. (Code 1979, 14-102)

14-103 **LITTER IN PUBLIC PLACES.**
 No person shall throw or deposit litter in or upon any street, sidewalk or other public place with the City except in public receptacles, in authorized private receptacles for collection, or in official city dumps. (Code 1979, 14-103)

14-104 **PLACEMENT OF LITTER IN RECEPTACLES.**
 Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property. (Code 1979, 14-104)

14-105 **SWEEPING LITTER INTO GUTTERS PROHIBITED.**
 No person shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter. (Code 1979, 14-105)

14-106 **MERCHANTS DUTY TO KEEP SIDEWALKS FREE OF LITTER.**
 No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the City the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the City shall keep the sidewalk in front of their business premises free of litter. (Code 1979, 14-106)

14-107 **LITTER THROWN BY PERSONS IN VEHICLES.**
 No person while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the City, or upon private property. (Code 1979, 14-107)

14-108 **TRUCK LOADS CAUSING LITTER.**
 No person shall drive or move any truck or other vehicle within the City unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place. Nor shall any person drive or move any vehicle or truck within the City, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances, litter or foreign matter of any kind. In the event such materials are not removed after twenty-four (24) hour notice from City officials to remove the same, such person shall be deemed guilty of a misdemeanor. (Code 1979, 14-108)

14-109 **LITTER IN PARKS.**
 No person shall throw or deposit litter in any park within the City except in public receptacles and in such a manner that the litter will be prevented from being carried

or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein. (Code 1979, 14-109)

14-110

LITTER IN LAKES AND FOUNTAINS.

No person shall throw or deposit litter in any fountain, pond, lake, stream, bay or any other body of water in a park or elsewhere within the City. (Code 1979, 14-110)

14-111

THROWING OR DISTRIBUTING COMMERCIAL HANDBILLS.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any sidewalk, street or other public place within the City. Nor shall any person hand out or distribute or sell any commercial handbill in any public place. However, it shall not be unlawful on any sidewalk, street or other public place within the City for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any person willing to accept it. (Code 1979, 14-111)

14-112

PLACING HANDBILLS ON VEHICLES.

No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle. However, it shall not be unlawful in any public place for a person to hand out or distribute without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it. (Code 1979, 14-112)

14-113

DEPOSITING HANDBILLS ON UNINHABITED PREMISES.

No person shall throw or deposit any commercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant. (Code 1979, 14-113, Ord. 9260)

14-114

PROHIBITING DISTRIBUTION OF HANDBILLS WHERE PROPERLY POSTED.

No person shall throw, deposit or distribute any commercial handbill upon any private premises, if requested by anyone thereon not to do so, or if there is placed on said premises in a conspicuous position near the entrance thereof, a sign bearing the words: "No trespassing," "No peddlers or agents," "No advertisement," or any similar notice, indicating in any manner that the occupants of said premises do not desire to be molested or have their right of privacy disturbed, or to have any such handbills left upon such premises. (Ord. 9260)

14-115

DISTRIBUTING HANDBILLS AT INHABITED PRIVATE PREMISES.

(A) No person shall throw, deposit, or distribute any commercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant, or other person then present in or upon such private premises. In case of inhabited private premises which are not posted as provided in Section 4-114, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises, if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places. Mailboxes may not be so used when so prohibited by federal postal law or regulations. (Ord. 9260)

(B) The provisions of this section shall not apply to the distribution of mail by the United States, nor to newspapers which shall be placed on private property in such a manner as to prevent their being carried or deposited by

the elements upon any street, sidewalk or other public place or upon private property. (Code 1979, 14-115)

- 14-116 **DROPPING LITTER FROM AIRCRAFT.**
No person in an aircraft shall throw out, drop or deposit within the City any litter, handbill or any other object. (Code 1979, 14-116)
- 14-117 **POSTING NOTICES PROHIBITED.**
No person shall post or affix any notice, poster or other paper or device, calculated to attract the attention of the public, to any lamp post, public utility pole, or shade tree, or trash receptacle, or upon any public structure or building, except as may be authorized by law, or approved by the City Commission. (Code 1979, 14-117)
- 14-118 **LITTER ON OCCUPIED PRIVATE PROPERTY.**
No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property. (Code 1979, 14-118)
- 14-119 **OWNER TO MAINTAIN PREMISES FREE OF LITTER.**
The owner or person in control of any private property shall at all times maintain the premises free of litter. This Section shall not prohibit the storage of litter in authorized private receptacles for collection. (Code 1979, 14-119)
- 14-120 **LITTER ON VACANT LOTS.**
No person shall throw or deposit litter on any vacant private property within the City whether owned by such person or not. (Code 1979, 14-120)
- 14-121 **CLEARING OF LITTER FROM PRIVATE PROPERTY BY CITY.**
Provisions relating to clearing of litter from private property by the City shall be as follows:

The environmental, inspector or other designated agent of the City is hereby authorized and empowered to notify the owner, or his or her agent, and where applicable, the occupant of any private property as defined in Section 14-102, to properly dispose of litter located on such owner's or occupant's property which is dangerous to public health, safety or welfare or constitutes an unsightly condition which is a blight to adjoining property, the neighborhood or the City.
- 14-122 **SAME; NOTICE.**

(A) Written notice of violation and order to dispose of litter shall be given either by certified mail, postage prepaid, return receipt requested, or by personal service. Such notice shall include the following:
- (1) The Section(s) of this Article violated;
 - (2) A description of the litter condition and its location upon the notified person's premises;
 - (3) The date by which the condition is to be remedied;
 - (4) A statement of the person's right to request a hearing as provided by Section 14-125; and

(5) A statement of the action which may be taken against the notified person upon noncompliance.

(B) Where litter is located upon residential rental property, both the owner and the occupant shall be notified, but the duties of owners and occupants with respect to the disposing of litter upon the premises shall be determined in accordance with the provisions of Sections 5-504 and 5-505 of this Code, subject to the terms and conditions of any valid rental agreement.

14-123

SAME; ACTION UPON NONCOMPLIANCE.

Upon the neglect or refusal of any owner, agent or occupant so notified, to properly dispose of letter within fifteen (15) days after receipt of the written notice provided for in Section 14-122, or such longer period of time as the environmental inspector may find reasonable, or within twenty (20) days after the date of such notice in the event the same is returned to the City by the Post Office Department because of its inability to make delivery thereof: Provided the same was properly addressed to the last known address of such owner, agent or occupant, the environmental inspector or other designated agent of the City is hereby authorized and empowered to pay for the disposing of such litter or to order its disposal by the City, in addition or in the alternative to filing a complaint in the municipal court against any person found to be in violation of any of the provisions of this Article.

14-124

SAME; HEARING.

At any time prior to the expiration of the compliance period specified according to

Section 14-124 herein, the person notified to dispose of litter may request a hearing before the Governing Body on the matter. Such request must be in writing. The hearing shall be held by the Governing Body as soon as practicable after the filing of the request therefor, and the person shall be advised by the City of the time and place of the hearing at least five (5) days in advance thereof. At any such hearing, the person may be represented by counsel, and the person and the City may introduce such witness and evidence as is deemed necessary and proper by the Governing Body. The hearing need not be conducted according to formal rules of evidence. Upon conclusion of the hearing, the Governing Body shall record its determination of the matter by means of adopting a resolution, and serving the resolution upon the person either by certified mail or personal service.

14-125

SAME; COSTS.

When the City has effected the removal of litter or has paid for its removal, the actual cost thereof, if not paid by the owner or other person responsible prior thereto, shall be charged to the person occupying the property, or if the person is also the legal-titled owner of the property, the costs may be assessed in the manner provided in K.S.A. 12-6a17 or may be charged to the owner of the property on the next regular tax bill forwarded to such owner by the City and shall be due and payable by the owner at the time of payment of such bill.

14-126

SAME; RECORDED STATEMENT CONSTITUTES LIEN.

Where the full amount due the City is not paid by the owner responsible for such payment within thirty (30) days after the disposal of such litter by the City, then the environmental inspector or other designated agent of the City shall cause to be recorded in the Office of the Register of Deeds a sworn statement showing the costs and expense incurred for the work, the date the work was done and the location of the property on which the work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property, and shall remain in full force and effect for the amount due in principal and interest, plus court costs, if any, for

collection, until final payment has been made. (Ord. 4778)

ARTICLE 2. GENERAL PROVISIONS

14-201

ATTEMPT.

An attempt is any overt act toward the violation of any ordinance done by a person who intends to commit such a violation but fails in the perpetration thereof or is prevented or intercepted in committing such violation.

Any attempt to violate any ordinance in this chapter is a misdemeanor. (Ord. 5516, Art. 2)

14-202

SAME; DEFENSE.

It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, the means employed, or the act itself were such that the commission of the violation was not possible. (Ord. 5516, Art. 2)

14-203

AIDING OR ABETTING.

(Ord. 5516, Ord. 9686)

- (A) A person is criminally responsible for a crime committed by another if such person, acting with the mental culpability required for the commission thereof, advises, hires, counsels or procures the other to commit the crime or intentionally aids the other in committing the conduct constituting the crime.
- (B) A person liable under subsection (A) herein is also liable for any other crime committed in pursuance of the intended crime if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the crime intended.
- (C) A person liable under this section may be charged with and convicted of the crime although the person alleged to have directly committed the act constituting the crime:
 - (1) Lacked criminal or legal capacity;
 - (2) has not been convicted;
 - (3) has been acquitted; or
 - (4) has been convicted of some other degree of the crime or of some other crime based on the same act.

14-204

GENERAL PENALTY.

Whenever any offense is declared by any provision of this Chapter, absent a specific or unique punishment otherwise prescribed, the offender shall be punished in accordance with this section. (Ord. 8021)

- (A) A fine of not less than \$1 or more than \$1,000; or
- (B) A jail term not more than 180 days; or
- (C) Both a fine and jail term in an amount not to exceed the amounts specified in subsections (A) and (B) above.

ARTICLE 3. OFFENSES AGAINST PERSONS AND PROPERTY

14-301

CRIMINAL TRESPASS.

- (A) No person shall commit criminal trespass. Criminal trespass is defined as: (Ord. 7902, Ord. 8021)
 - (1) Entering or remaining upon or in any land, nonnavigable body of water, structure, vehicle, aircraft or watercraft other than railroad property as defined in K.S.A. 21-5809 and amendments thereto by a person who knows such person is not authorized or privileged to do so, and:
 - (a) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or
 - (b) such premises or property are posted in a manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or
 - (c) such person enters or remains therein in defiance of a restraining order issued pursuant to K.S.A. 60-31a05, 60-31a06, K.S.A. 23-2707, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-2242, 38-2243 or 38-2255, and amendments thereto, and the restraining order has been personally served upon the person so restrained; or
 - (2) entering or remaining upon or in any public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.
 - (3) Entering upon the roof of any building without the permission of the owner, the owner's designee, or a tenant of the building. This subsection shall not apply to:
 - (a) Law enforcement officers, firefighters, and emergency medical personnel, during the course of their employment.
 - (b) Employees of any company providing utility service to the building, during the course of their employment, when roof access is immediately necessary to restore utility service or prevent damage to the building or the utility's infrastructure.
 - (c) Individuals who enter upon the roof to escape a structure fire or other natural disaster.
- (B) As used in this section:
 - (1) 'Health care facility' means any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients.
 - (2) 'Health care provider' means any person:
 - (a) Licensed to practice a branch of the healing arts;
 - (b) licensed to practice psychology;

- (c) licensed to practice professional or practical nursing;
- (d) licensed to practice dentistry;
- (e) licensed to practice optometry;
- (f) licensed to practice pharmacy;
- (g) registered to practice podiatry;
- (h) licensed as a social worker; or
- (i) registered to practice physical therapy.

(C) Any person convicted of a violation of this section shall be fined in an amount not to exceed \$1000, or sentenced to a jail term not to exceed 180 days, or both fined and jailed. Upon a conviction of a violation of subsection (A)(1)(c), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which must be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole.

(D) This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters and other premises in the making of a survey.

14-302

CRIMINAL DAMAGE TO PROPERTY.

No person shall engage in criminal damage to property. Criminal damage to property is by means other than fire or explosive:

- (A) Intentionally injuring, damaging, mutilating, defacing, destroying, or substantially impairing the use of any property in which another has an interest without the consent of such other person; or
- (B) Injuring, damaging, mutilating, defacing, destroying or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

Criminal damage to property is a misdemeanor if the property damaged is of the value of less than \$1,000.00 or is of the value of \$1,000.00 or more and is damaged to the extent of less than \$1,000.00. (Ord. 5051, Sec. 1; Ord. 5516, Art. 3; K.S.A. 21-5813)

14-303

CRIMINAL DAMAGE TO PROPERTY; HARMING PLANTS.

No person shall willfully injure or destroy any plant, tree, vine, or flower, the property of another, standing on or attached to the land of another, or shall pick, destroy, or carry away therefrom or in any way interfere with any part of the flowers or fruit thereof; except that this section shall not prohibit the picking or carrying away of the ripe fruit of any tree, plant, or vine on any property owned by the City of Lawrence; provided, however, that no ripe fruit of any tree, plant or vine located in a public right-of-way or leased to another party shall be so picked or carried away. (Code 1979, 14-302; Ord. 5516, Ord. 8639)

14-304

THEFT

- (A) No person shall commit theft. Theft is any of the following acts done with the intent to deprive the owner permanently of the possession, use or benefit of the owner's property: (Ord. 7928, Ord. 8021, Ord. 9256)

- (1) Obtaining or exerting unauthorized control over property;
 - (2) Obtaining by deception control over property;
 - (3) Obtaining by threat control over property;
 - (4) Obtaining control over stolen property knowing the property to have been stolen by another; or
 - (5) Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.
- (B) Penalty (Ord. 8021, Ord. 9256)
- (1) Any person convicted of the crime of theft shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term.
 - (2) Theft of property or services of a value less than \$1500 is a misdemeanor, and may be prosecuted in municipal court, unless it constitutes a felony as described below:
 - (a) The theft in question is of property valuing at least \$50 but less than \$1500 and is committed by a person who has been convicted of theft two or more times within the five years immediately preceding commission of the crime, excluding any period of imprisonment;
 - (b) The theft in question constitutes a part of thefts from three or more separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or
 - (c) The theft in question is of a firearm.

(Ord. 5262, Sec. 1; Ord. 5516, Art. 3; K.S.A. 21-3701, Ord. 7928, Ord. 8021, Ord. 9256)

14-305

THEFT; INTENT TO PERMANENTLY DEPRIVE.

(Ord. 9256)

- (A) In any prosecution under this article, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:
 - (1) The giving of a false identification or fictitious name, address or place of employment at the time of buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;
 - (2) The failure of a person who leases or rents personal property and fails to return the same within 10 days after the date set forth in the

lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

- (3) Destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property; or
- (4) Destruction of or substantially damaging or altering the property so as to make the property unstable or unrecognizable in order to obtain control over the property;
- (5) The failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;
- (6) The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying:
 - (A) The time and place to return the vehicle; and
 - (B) That failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle.

In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

- (7) Removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or
- (8) Under the provisions of Section 14-304(A)(5) of this Article, the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

- (B) In any prosecution in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library

requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

- (C) The word **notice** as used herein shall be construed to mean notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library materials at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address. (K.S.A. 21-5804)

14-306

THEFT; PROPERTY LOST, MISLAID OR DELIVERED BY MISTAKE.
(Ord. 8021, Ord. 9256)

- (A) Theft of property lost, mislaid, or delivered by mistake, the value of which is less than \$1000, is obtaining control of property of another by a person who:
- (1) Knows or learns the identity of the owner thereof;
 - (2) Fails to take reasonable measures to restore to the owner lost property, mislaid property or property delivered by a mistake; and
 - (3) Intends to permanently deprive the owner of the possession, use or benefit of the property.
- (B) As used herein, "property delivered by mistake" includes, but is not limited to, a mistake as to the:
- (1) Nature or amount of the property; or
 - (2) Identity of the recipient of the property.
- (C) Any person who is convicted of a violation of this section shall be punished by a fine not to exceed \$2500 or a jail term not to exceed one year, or both such fine and jail term.

14-307

THEFT; THEFT OF SERVICES.

- (A) No person shall commit theft of services. Theft of services is obtaining services from another by deception, threat, coercion, stealth, tampering or use of false token or device. (Ord. 8021)
- (B) "Services" within the meaning of this Section, includes, but is not limited to, labor, professional service, cable television service, public or municipal utility or transportation service, telephone service, lodging, entertainment and the supplying of equipment for use. (Ord. 8021)
- (C) "Tampering" within the meaning of this section, includes, but is not limited to: (Ord. 8021, Ord. 9256)
- (1) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

- (2) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;
 - (3) preventing any such meters from properly measuring or registering;
 - (4) knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or
 - (5) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.
- (D) In any prosecution under this section, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, water, natural gas, telephone service or cable television service, specified in subsection (B), shall be prima facie evidence of intent to violate the provisions of this section by the person or persons using or receiving the direct benefits from the use of the electricity, water, natural gas, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, telephone service or cable television service which has not been authorized or measured. (Ord. 8021, Ord. 9256)
- (E) Any person who is convicted of a violation of this section alleging a theft of services less than \$1500 in value shall be punished by a fine not to exceed \$2500 or a jail term not to exceed one year, or both such fine and jail term. (Ord. 8021, Ord. 9256)

(Ord. 5516, Ord. 8021, Ord. 9256)

14-308

CRIMINAL DEPRIVATION OF PROPERTY.

- (A) No person shall criminally deprive a person of property. Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of such owner's property. (Ord. 8021, Ord. 9256)
- (B) Criminal deprivation of property is a misdemeanor, unless the property is a motor vehicle and the defendant has three or more previous convictions for criminal deprivation of property, or if the property is a firearm. Upon conviction of a violation of this section, an offender shall be punished by a fine in an amount not to exceed \$2500 or a jail term not to exceed one year, or both such fine and jail term. Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100.00, except that the provisions of this subsection relating to a second or subsequent conviction shall not apply to any person where such application would result in a manifest injustice. (Ord. 8021)

(Code 1979, 14-304; Ord. 5516, Art. 3; K.S.A. 21-3705, Ord. 8021, Ord. 9256)

14-309

INTERFERENCE WITH PUBLIC PROPERTY.

No person shall place, throw, leave or cause or permit to be placed, thrown or left on any street, alley, sidewalk or other public property in this City, any glass, tacks, nails, bottles or any other substance or things that might wound any person or animal, or cut or puncture any pneumatic tire when passing over the same. (Code 1979, 14-308; Ord.5516, Art.3)

14-310

TAMPERING WITH A LANDMARK.

No person shall tamper with a landmark. Tampering with a landmark is defined as willfully and maliciously:

- (A) Removing any monument of stone or other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land, or of the state, or any legal subdivision thereof; or
- (B) Defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary; or
- (C) Cutting down or removing any tree, post or other monument upon which any such marks have been made for such purpose, with intent to destroy such marks; or
- (D) Breaking, destroying, removing or defacing any milepost, milestone or guideboard erected by authority of law on any public highway or road; or
- (E) Defacing or altering any inscription on any such marker or monument; or
- (F) Altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of K.S.A. 58-2011.(Code 1979, 14-309; Ord. 5516, Art. 3; K.S.A. 21-3724)

14-311

INTERFERENCE; CONDUCT, PUBLIC BUSINESS IN PUBLIC BUILDING.

- (A) No person shall interfere with the conduct of public business in public buildings. Interference with the conduct of public business in public buildings is: (Ord. 8021)
 - (1) Conduct at or in any public building owned, operated or controlled by the state or any of its political subdivisions so as to intentionally deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use the facilities or to leave any such public building;
 - (2) Intentionally impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof;
 - (3) Intentionally refusing or failing to leave any such public building upon being requested to do so by the chief administrative officer, or such officer's designee, charged with maintaining order in such public building, if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed,

disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures or functions being carried on in such public building;

(4) Intentionally impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or any act designed to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session; or

(5) Intentionally impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designated for the use of any executive body or official, the normal proceedings of such body or official.

(B) Any person convicted of a violation of this section shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term. (Ord. 8021)

14-312

POSTING SIGNS WITHOUT PERMISSION.

No person shall put up any handbills, advertisements, posters, show bills or other signs on any building, pole or property not his or her own, without permission from the owner thereof. (Code 1979, 14-312; Ord. 5516, Art. 3)

ARTICLE 4. OFFENSES AGAINST PEACE AND GOOD ORDER

14-401

ASSAULT.

No person shall commit assault. Assault is defined as intentionally placing another person in reasonable apprehension of immediate bodily harm. (Code 1979, 14-401; Ord. 5516, Art. 4; K.S.A. 21-5412(d))

14-402

BATTERY.

No person shall commit battery. Battery is defined as:

(A) Intentionally or recklessly causing bodily harm to another person; or

(B) Intentionally causing physical contact with another person when done in a rude, insulting or angry manner. (Code 1979, 14-402; Ord. 5516, Art. 4; K.S.A. 21-5413(a), as amended.)

14-403

UNLAWFUL ASSEMBLY.

No person shall engage in unlawful assembly. Unlawful assembly is the meeting or coming together of not less than five persons for the purpose of engaging in conduct constituting either disorderly conduct, as defined by Section 14-409 of this code and amendments thereto, or a riot, as defined by K.S.A. 21-6201(a) and amendments thereto, or when in a lawful assembly of not less than five persons, agreeing to engage in such conduct.

(Code 1979, 14-402; Ord. 5516, Ord. 8021)

14-404

REMAINING AT AN UNLAWFUL ASSEMBLY.

- (A) No person shall remain at an unlawful assembly. Remaining at an unlawful assembly is intentionally failing to depart from the place of an unlawful assembly after being directed to leave by a law enforcement officer. (Ord. 8021)
- (B) Any person convicted of a violation of this section shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term. (Ord. 8021)

14-405

MISSILES.

- (A) No person in this City shall throw, bat or by other means propel any ball, stone or other hard substance into, on or across any street or alley in any public place or at or against any building or vehicle, or at or toward any person with the intent to strike, harm, injure or damage any person or property. (Ord. 8021)
- (B) For the purposes of this Section, the act of throwing, batting, or by other means propelling any ball, stone or other hard substance into, on or across any street shall be deemed prima facie evidence of the intent to strike, harm, injure or damage other persons or property. (Ord. 8021)
- (C) Exceptions. (Ord. 8021)
 - (1) It shall not be illegal under this Section to throw, bat or propel a ball toward any person with intent to strike that person when both the individual throwing, batting or propelling the ball and the person who is the target of the thrown, batted or propelled ball are consensually engaged in a sporting or recreational activity and the risk of being struck by a thrown, batted or propelled ball is an inherent part of that activity.
 - (2) It shall not be illegal under this Section for a person to throw, bat or propel a ball or other hard substance against a building with the intent to strike the building if the person has the permission of the owner of the building to conduct such activity.

(Code 1979, 14-405; Ord. 5516, Ord. 8021)

14-406

CARRYING CONCEALED WEAPONS.

- (A) It shall be unlawful for an individual to carry concealed on his or her person, or possess with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly weapon or instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife, or a dangerous or deadly weapon or instrument. (Ord. 8021)
- (B) It shall be unlawful for an individual to carry any pistol, revolver or other firearm concealed on his or her person except when he or she is on the person's land or in the person's abode or fixed place of business; (Ord. 8021)
- (C) Exceptions: (Ord. 8021)

- (1) No part of this Section prohibiting the carrying of a concealed weapon shall apply to:
 - (a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer.
 - (b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.
 - (c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty.
- (2) No part of this Section dealing with carrying a concealed revolver, pistol or firearm shall apply to:
 - (a) Watchmen, while actually engaged in the performance of the duties of their employment.
 - (b) Private detectives licensed by the state to carry the firearm involved, while actually engaged in the duties of their employment;
 - (c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment.
 - (d) The state fire marshal, the state fire marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.
 - (e) Special deputy sheriffs described in K.S.A. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.
 - (f) Any person licensed to carry a concealed firearm under the Kansas Personal and Family Protection Act, and amendments thereto, at such times and in such places as the person would be allowed to lawfully carry a concealed firearm under that act.
- (D) Any person convicted of a violation of this section shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term. (Ord. 8021)

(Code 1979, 14-408; Ord. 5516, Ord. 8021)

14-406.1

CRIMINAL CARRYING OF A WEAPON.

No person shall engage in the criminal carrying of a weapon. (Ord. 9014)

- (A) Criminal carrying of a weapon is knowingly carrying:
 - (1) Any bludgeon, sand club, metal knuckles or throwing star;
 - (2) Concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;
 - (3) On one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance.

- (B) Exceptions:
 - (1) No part of this Section prohibiting the carrying of a concealed weapon shall apply to:
 - (a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer.
 - (b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority.
 - (c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty, or;
 - (d) the manufacture of, transportation to, or sale of weapons to a person authorized under subsections (B)(1)(a), (B)(1)(b) and (B)(1)(c) to possess such weapons.

- (C) Any person convicted of a violation of this section shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term.

- (D) As used in this section, "throwing star" means the same as prescribed by K.S.A. 21-6301, and amendments thereto.

14-406.2

THE CARRYING OF UNCONCEALED FIREARMS IN CERTAIN DESIGNATED CITY BUILDINGS.

- (A) It shall be a violation of this section for any person to carry an unconcealed firearm, as that term is defined at K.S.A. 2016 Supp. 75-7b01, as amended, in any building owned or leased by the City that is posted with a sign or signs ("Posted Premises") prohibiting the carrying of unconcealed firearms in accordance with rules and regulations promulgated by the Kansas Attorney General pursuant to K.S.A. 2016 Supp. 75-7c24(d), as amended. (Ord. 9421)

- (B) Any person who violates subsection (a) hereof shall: (Ord. 9421)

- (i) be denied entry to any such Posted Premises; or
 - (ii) shall be requested to leave any such Posted Premises.
- (C) Any person who, in violation of subsection (b)(i) hereof, gains entry to any Posted Premises after being denied entry to said Posted Premises or who, in violation of subsection (b)(ii) hereof, fails to leave any Posted Premises after being requested to leave said Posted Premises shall be guilty of aggravated criminal trespass, a misdemeanor, and shall upon conviction therefor be sentenced to a term of incarceration not to exceed one year, shall be fined an amount not to exceed \$2,500.00, or shall both be incarcerated and fined. (Ord. 9421)
- (D) Nothing in this Section shall be construed to prohibit a law enforcement officer, as defined at K.S.A. 2016 Supp. 22-2202, as amended, or any court security officer, employed by the City, from acting within the scope of his or her duties in any Posted Premises. (Ord. 9421)

14-407

UNLAWFUL DISCHARGE OF A FIREARM.

- (A) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of the City.
- (B) This section shall not apply to the discharge of any firearm within or into the corporate limits of the City if:
- (1) The firearm is discharged in the lawful defense of one's person, another person or one's property.
 - (2) The firearm is discharged at a private or public shooting range.
 - (3) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas Department of Wildlife, Parks and Tourism.
 - (4) The firearm is discharged by special permit of the Chief of Police.
 - (5) The firearm is discharged using blanks; or
 - (6) The firearm is discharged in lawful self-defense or defense of another person against an animal attack.

(Code 1979, 14-409; Ord. 5516, Ord. 8021, Ord. 8868)

14-408

CARRYING WEAPONS IN OR NEAR ANY BAR.

- (A) Definitions
- (1) "Alcoholic Liquor" means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

- (2) "Cereal Malt Beverage" means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute, but does not include any such liquor that is more than 3.2 percent alcohol by weight.
- (3) "Close proximity" means property any part of which is within 200 feet, except that if any portion of the contiguous area of a park, unimproved lot, parking garage or parking lot is within 200 feet then the entire contiguous area of the parking lot or parking garage is within close proximity.
- (4) "Dangerous knife" means every knife or straight razor except for:
 - (a) An ordinary folding pocket knife with a blade no longer than 4 inches in length.
 - (b) Knives provided by the drinking establishment for use by patrons for the purpose of dining.
 - (c) Knives possessed by the employees and owners of the drinking establishment, or those contracted by such owners or employees to perform work within the drinking establishment, when such knives are used within the drinking establishment as tools for food preparation, maintenance, or some other business purpose.
 - (d) Knives and straight razors possessed by individuals who may lawfully carry such items concealed on their person pursuant to K.S.A. 21-6301(a)1-8, and amendments thereto.
- (5) "Drinking establishment" means premises where alcoholic liquor is sold by the drink and every premises licensed for that purpose.
- (6) "Firearm" means an object having the design or capacity to propel a projectile by force of an explosion, gas, or other combustion.
- (7) "Possession" means exercising actual or constructive dominion or control over an object.
- (8) "Publicly accessible property" means any public or private street, alley, sidewalk, unimproved lot, park, walkway, trail, parking garage, parking lot or other property that is accessible to or actually used by members of the general public.
- (9) "Within a drinking establishment" means any area on the premises of a drinking establishment where alcoholic liquor may be lawfully consumed.
- (B) It shall be unlawful for any person to possess a firearm within a drinking establishment or on publicly accessible property in close proximity to the premises of any drinking establishment.
- (C) It shall be unlawful for any person to possess a dangerous knife within a drinking establishment.
- (D) The provisions of this section concerning the possession of firearms shall not apply to:
 - (1) Business owners and their employees while they are on the premises of their fixed place of business.

(2) Law enforcement officers or others entitled to carry concealed firearms in the locations that they are lawfully authorized to carry such firearms.

(3) Members of the United States Armed Forces or Kansas National Guard during or in conjunction with the actual performance of their official duties.

(4) An unloaded firearm within a vehicle so long as the firearm is within a container that completely encloses the firearm.

(5) An unloaded firearm possessed by an individual who does not contemporaneously possess any ammunition for the firearm contained in any ammunition clip, magazine, speed loader, drum or other device that allows for the rapid loading of the firearm provided that such firearm is not possessed within a drinking establishment.

(6) Individuals whose residence is within close proximity to the area where the firearm is possessed if such firearm is not possessed within a drinking establishment.

(7) Firearms that may not be lawfully possessed. The possession of such firearms may be prosecuted under the specific laws rendering their possession illegal.

(8) Firearms that only incidentally pass through an area regulated by this section. A firearm incidentally passes through a regulated area if the possessor does not voluntarily interrupt his or her continuous travel through the regulated area. Pausing on the roadway due to traffic control devices or traffic conditions shall not be considered voluntary interruption of travel.

(9) Firearms possessed while on the premises of a lawfully operating firing range or target range with a fixed place of business. (Ord. 7984)

(E) This section shall be construed to limit the right to possess weapons in the areas regulated, and nothing in the section shall be interpreted to grant an individual the right to possess a weapon in an area or manner that would be unlawful under any other applicable law.

(F) Any person who is convicted of a violation of this section shall be punished as follows: (Ord. 8082)

(1) On a first offense the person shall be fined in an amount not less than \$500 or more than \$2500, and shall be sentenced to a jail term of at least 30 days but not more than one year.

(2) On a second offense the person shall be fined in an amount not less than \$1000 or more than \$2500 and shall be sentenced to a jail term of at least 90 days but no more than one year.

(3) On a third or subsequent offense the person shall be fined \$2500 and shall be sentenced to a jail term of at least 180 days but no more than one year.

(Ord. 5516, Art. 4, Ord. 7976)

14-409

DISORDERLY CONDUCT.

No person shall engage in disorderly conduct. Disorderly conduct is, with

knowledge or probable cause to believe that such acts will alarm, anger or disturb others or provoke an assault or other breach of the peace:

- (A) Engaging in brawling or fighting; or
- (B) Disturbing an assembly, meeting, or procession, not unlawful in its character; or
- (C) Using offensive, obscene, or abusive language or engaging in noisy or offensive or other conduct tending reasonably to arouse alarm, anger or resentment in others. (Code 1979, 14-410; Ord. 5516, Art. 4)

14-410

MOB ACTION.

Whenever the Mayor or, in the event of his or her inability or unavailability to act, the Commissioner acting for the Mayor determines that an emergency exists as a result of mob action or other civil disobedience causing danger of injury to or damages to persons or property, he or she shall have power to impose by proclamation any or all of the following regulations necessary to preserve the peace and order of the City:

- (A) To impose a curfew upon all or any portion of the City thereby requiring all persons in such designated curfew areas to forthwith remove themselves from the public streets, alleys, parks or other public places. Physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firemen and City authorized or requested law enforcement officers and personnel may be exempted from such curfew.
- (B) To order the closing of any business establishments anywhere within the City for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline, or firearms.
- (C) To designate any public street, thoroughfare, or vehicle parking areas closed to motor vehicles and pedestrian traffic.
- (D) To call upon regular and auxiliary law enforcement agencies and organizations within or without the City to assist in preserving and keeping the peace within the city. (Code 1979, 14-411; Ord. 5516, Art. 4)

14-411

PROCLAMATION; TERMINATION; PENALTY.

The proclamation of emergency provided herein shall become effective upon its issuance and dissemination to the public by appropriate news media.

Any emergency proclaimed in accordance with the provisions of this Article shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of proclamation determining an emergency no longer exists, whichever occurs first. Such emergency may be extended for such additional periods of time as determined necessary by resolution of the governing body.

Any person who shall willfully fail or refuse to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized herein shall be deemed guilty of a misdemeanor, and upon conviction therefor, shall be punished by a fine of not more than \$100 or by imprisonment in the City jail for a period of not to exceed six (6) months, or by both such fine and imprisonment. (Code 1979, 14-412; Ord. 5516,

Art. 4)

14-412

URINATION/DEFECATION IN PUBLIC PROHIBITED.

No person shall urinate or defecate in or upon any street, sidewalk, alley, plaza, park, public building, public property, private parking lot, or in any place open to the public or exposed to public view. This section shall not apply to urination or defecation utilizing fixtures in any public or private restroom or other facility designed for the sanitary disposal of human waste. Upon conviction of violation of this section the defendant shall be fined or imprisoned, or both, pursuant to the general penalty provision of the Code of the City of Lawrence, Kansas, Section 1-112. (Ord. 6528)

14-413

EXCESSIVE NOISE CONSTITUTING DISTURBANCE OF PEACE.

Statement of Intent. No provision of Sections 14-413 and 14-414 shall be construed to limit or abridge the rights of any person to speak, peacefully assemble and express opinions. It is the purpose of this ordinance to protect individuals from unreasonable intrusions caused by excessive, unnecessary or unusually loud noises. (Ord. 6088)

14-414

SAME. Disturbing the Peace.

- (A) It shall be unlawful for any person to make, continue, maintain or cause to be made or continue any excessive, unreasonable or unusually loud noise which disturbs, injures, endangers the repose, health, peace or safety of other people of ordinary sensitivity within the vicinity of the noise.
- (B) It shall be unlawful for any person to use, operate or permit the use or operation of any electronic device, radio, receiving set, television, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet or repose of the neighboring inhabitants of ordinary sensitivity.
- (C) No person shall participate in or be in any party or gathering of people from which sound emanates at a sufficient volume so as to disturb the peace, quiet or repose of the neighboring inhabitants of ordinary sensitivity. A police officer may order all such persons present at any such party or gathering to immediately disperse from the vicinity of any such party or gathering in lieu of being charged under this ordinance; provided; however, owners or tenants are not required to leave their own dwelling unit. Owners or tenants residing in the dwelling unit where the party or gathering occurs shall, upon request of a police officer, cooperate fully in abating the disturbance and failing to do so shall be in violation of this ordinance.
- (D) For the purposes of this ordinance, the term "neighboring inhabitants" includes those persons in single family dwellings, multiple family dwellings, boarding house rooms, hotel rooms or motel rooms within the vicinity of the noise. (Ord. 6088)

14-415

EXEMPTIONS.

The requirements of Sections 14-413 et seq. shall not apply to the following, provided that all equipment is in repair and operated properly:

- (1) Emergency work necessary to restore property to a safe condition or to protect a person and property from eminent danger;
- (2) Emergency vehicles;

- (3) Alarm systems;
- (4) Trash and waste pickup operations;
- (5) Aircraft or railroads;
- (6) Noise resulting from the activities of a temporary duration planned by school/university, governmental or community groups;
- (7) Air conditioners and lawn care equipment;
- (8) Construction operations; and
- (9) Church bells and campanile chimes. (Ord. 6088)

14-416

NO VIOLATION OF DISTURBING THE PEACE IF VIOLATION OF LOUD SOUND AMPLIFICATION SYSTEM ORDINANCE.

The provisions of 14-413 through 14-415 shall not apply to violations of the prohibition against the operation of loud sound amplification systems from within or upon vehicles as established in Section 17-116. (Ord. 7056)

14-417

ILLEGAL CAMPING

(Ord. 7893, Ord. 7960, Ord. 8046, Ord. 9754)

(A) Definitions

- (1) "Overnight shelter" shall mean a public or private shelter, with available overnight space, that is open to an individual or family unit experiencing homelessness, at no charge.
- (2) Camping" shall mean the use of land to conduct one or more specified activities when, based upon such use, it reasonably appears in light of all the circumstances that the participants, in conducting the specified activities, are using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may be engaging. Camping shall not include residing in a permanent structure that may be lawfully occupied as a permanent or temporary residence.
- (3) "Specified activities" shall include one or more of the following:
 - (a) making preparations to sleep such as laying down bedding.
 - (b) storing personal belongings including but not limited to clothing, sleeping bags, bedrolls, blankets, sheets, luggage, backpacks, kitchen utensils, cookware, and similar materials.
 - (c) making any fire for the purposes of warmth, or of cooking.
 - (d) erecting a tent, lean-to or other similar temporary structure.

(B) It shall be illegal to engage in camping on private property without the consent of the property's owner.

- (C) It shall be illegal to engage in camping on any public right of way or public property located within the area of the city zoned CD as defined by Chapter 20 of this code, unless there is no overnight shelter available to the person camping therein and such person remains on public property.
- (D) **Penalty**
Upon conviction for a violation of this section, the violator shall be fined in an amount not to exceed \$1000 dollars, or sentenced to a jail term not to exceed 6 months, or both.

14-418

AGGRESSIVE PANHANDLING.

- (A) **Definitions.** For the purpose of this section: (Ord. 7891)

- (1) "Panhandling" shall mean any request for or solicitation of an immediate donation of money. A request or solicitation to purchase an item for an amount far exceeding its value, in circumstances where a reasonable person would understand that the purchase is in substance a donation, constitutes panhandling. Panhandling shall not include the act of passively standing, sitting, or engaging in a musical performance or other street performance with a sign or other indication that donations are being sought, without any verbal request for a donation other than in response to an inquiry by another person.

- (2) "Aggressive Panhandling" shall mean panhandling that includes one or more of the following actions:

- (a) touching the solicited person without the solicited person's consent.
- (b) intentionally blocking the path of travel of the person being solicited.
- (c) intentionally blocking the entrance to any vehicle or building
- (d) continuing to solicit or request a donation from a person after that person has refused an earlier request.
- (e) following or remaining alongside a person who, after being solicited, walks away from the person panhandling.
- (f) making any statement, gesture, or other communication that would cause a reasonable person to feel threatened, fearful, or compelled.

- (B) **Unlawful Acts**

- (1) It shall be unlawful for any person to engage in aggressive panhandling.

- (2) It shall be unlawful for two or more people to intentionally work in concert to commit acts that would constitute aggressive panhandling if those acts were performed by a single individual.

- (3) It shall be unlawful for any person to engage in panhandling when either the panhandler or the person being solicited is located any of the following places:

- (a) at any bus stop.
- (b) in any public transportation vehicle or facility.
- (c) in a vehicle that is parked or stopped on any public street or alley.
- (d) within twenty feet of an automatic teller machine or the entrance to a bank, credit union, or savings and loan.
- (d) on private property, without the consent of the owner of the property.

14-419

MAINTAINING A PUBLIC NUISANCE; PERMITTING A PUBLIC NUISANCE.

(Ord. 9811)

- (A) It shall be unlawful to maintain a public nuisance. Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety, or welfare.
- (B) It shall be unlawful to permit a public nuisance. Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in subsection (a).
- (C) Any person violating Section 14-419(a) or Section 14-419(b) shall, upon an adjudication of guilt or the entry of a plea of no contest, be subject to a period of incarceration not to exceed 30 days, a fine not to exceed \$500.00, or both incarceration and a fine.
- (D) Unless otherwise repealed earlier by an ordinance of the Governing Body, this section of the City Code shall sunset and expire automatically at 11:59 p.m. on December 31, 2021, and shall, after that time, be null and void and of no force or effect.

ARTICLE 5. OFFENSES AFFECTING ADMINISTRATION OF JUSTICE

14-501

IMPERSONATING OFFICER.

No person shall exercise or assume to exercise any of the powers conferred upon any police officer, or with the intent to deceive others, represent himself to be any such officer or to possess the power and authority thereof, unless he is a duly authorized officer of the law. (Code 1979, 14-501; Ord. 5516, Art. 5)

14-502

INTERFERENCE WITH DUTIES OF A POLICE OFFICER OR OTHER PUBLIC OFFICER.

INTERFERENCE WITH DUTIES OF A LAW ENFORCEMENT OFFICER.

- (A) Interference with law enforcement is:
 - (1) Falsely reporting to a law enforcement officer, law enforcement agency or state investigative agency:
 - (a) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;

- (b) that a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;
 - (c) any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty; or
- (2) Concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or
 - (3) Knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.
- (B) Any violation of this section is a misdemeanor if the underlying offense is a misdemeanor, or resulting from any authorized disposition for a misdemeanor, or a civil case. Any person convicted of a violation of this section shall be punished by a fine not to exceed \$2500, or a jail term not to exceed one year, or both such fine and jail term.
 - (C) For purposes of this section, "law enforcement officer" means any person who by virtue of office or public employment is vested by law with a duty to maintain public order or to make arrests for violation of the laws of the state of Kansas or ordinances of any municipality thereof.

(Code 1979, 14-502; Ord. 5516, Ord. 8021, Ord. 9687)

14-503

PERMISSION TO COMMUNICATE WITH PRISONERS.

No person shall be in or about any place where City prisoners are kept or are required to work or to communicate with any of the persons confined or detained in the city jail without the permission of the chief of police, or other person in charge of such jail. (Code 1979, 14-504; Ord. 5516, Art. 5)

14-504

PRISONERS ESCAPING FROM CUSTODY.

- (A) No person shall escape from custody or knowingly aid or assist another person to commit a violation of this section. Escape from custody is escaping while held in lawful custody on a charge of or conviction for a violation of an ordinance of the City of Lawrence or a law of the State of Kansas. (Ord. 8021)
- (B) Definitions: (Ord. 8021)
 - (1) "Custody" means arrest; detention in a facility for holding persons charged with or convicted of crimes; detention in a facility for holding persons adjudicated as juvenile offenders; detention imposed as a specific condition of probation or parole; or any other detention for law enforcement purposes. "Custody" does not include general supervision of a person on probation or parole or constraint incidental to release on bail. A person ordered into custody by the Municipal Court is in custody for the purposes of this

section from the time of that order, and remains in such custody until released by the Court.

(2) "Escape" means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law or order of a court.

(C) A violation of this section shall be punished by a fine of no more than \$2500 or a jail term not to exceed one year or both such fine and jail term.

(Code 1979, 14-505; Ord. 5516, Ord. 8021)

14-505

ESCAPE FROM CUSTODY; AIDING.

No person by force shall set at liberty or attempt by force to set at liberty or rescue from any City police officer, having legal custody or charge of the same, any prisoner either before or after conviction. (Code 1979, 14-506; Ord. 5516, Art. 5)

ARTICLE 6. OFFENSES AGAINST MORALS AND DECENCY

14-601

CHEATS AND FRAUDS.

No person shall use or practice any game, device, or deceit, or assist the same to be done, for the purpose of cheating, defrauding or obtaining money or other valuable thing from any other person unlawfully. (Code 1979, 14-601; Ord. 5516, Art. 6)

14-602

INDECENT EXPOSURE.

Any person who willfully exposes his or her person or private parts in any public place, or from any place which is reasonably calculated to be viewed from a public place, shall, upon conviction, be guilty of a misdemeanor.

For the purpose of this Section, the phrase "persons or private parts" shall include male and female genitalia, buttocks and female breast. (Code 1979, 14-614; Ord. 5516, Art. 6)

14-603

WINDOW PEEPING.

It shall be unlawful for any person to enter or remain upon property owned or lawfully occupied by another in the City without the occupant's or, in the case of unoccupied property, the owner's permission for the purpose of looking or peeping into any window, door, skylight or other opening in a house, room or building

(Code 1979, 14-615; Ord. 5516, Ord. 8021)

ARTICLE 7. MISCELLANEOUS OFFENSES

14-701

BLASTING.

No person shall blast or cause to be blasted within the City, rocks or other material without taking such precautions as will effectively prevent fragments of rock or other material being thrown into any street or alley, or upon the premises of another. (Code 1979, 14-701)

14-702

FALSE FIRE ALARMS.

No person shall turn in or aid or abet the turning in of a false alarm of fire. (Code 1979, 14-702)

14-703

RESERVED.

- 14-704 **ABANDONED ICEBOXES AND REFRIGERATORS.**
 It shall be unlawful for any person to leave or permit to remain outside of any dwelling or building or other structure, or within any unoccupied or abandoned structure in a place accessible to children, any abandoned, unattended, discarded icebox, refrigerator or other container which has an airtight door or lid, snaplock or other locking device which may not be released from the inside, without first removing such door, lid, snaplock or other locking device from such icebox, refrigerator or container. (Code 1979, 14-704)
- 14-705 **THEATER REGULATIONS.**
 No person owning or managing a theater, opera house, hall or place where lectures, entertainments or moving pictures are given or exhibited shall permit any person to stand in or occupy the aisles, lobby or foyer of such theater, opera house, hall or other places where lectures, entertainments or moving pictures are given or exhibited. (Code 1979, 14-707)
- 14-706 **FURNISHING ALCOHOLIC LIQUOR OR CEREAL MALT BEVERAGE TO A MINOR.**
- (A) Furnishing alcoholic liquor or cereal malt beverage to a minor is directly or indirectly, selling to, buying for, giving or furnishing any alcoholic liquor or cereal malt beverage to any minor. (Ord. 7888)
 - (B) Furnishing alcoholic liquor or cereal malt beverage to a minor is a misdemeanor for which the minimum fine is \$300. (Ord. 7888)
 - (C) As used in this section, terms have the meanings provided by K.S.A. 41-102, 41-2601 and 41-2701, and amendments thereto. (Ord. 7888)
 - (D) It shall be a defense to a prosecution under this section if: (Ord. 7888)
 - (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof; and
 - (2) The defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and
 - (3) To purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas nondriver's identification card or other official or apparently official document, containing a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.
 - (E) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward when such furnishing is permitted and supervised by the child or ward's parent or legal guardian. (Ord. 7888)
- 14-707 **AERIAL LUMINARIES PROHIBITED.**
 It shall be unlawful to ignite or otherwise use aerial luminaries, commonly known as sky lanterns or flying luminaries, within the City of Lawrence. As used in this section, "aerial luminary" refers to airborne paper objects containing a device for fuel that heats air from the inside causing it to rise into the air and remain airborne until

extinguished. (Ord. 8810)

ARTICLE 8. CURFEW

14-801

CHILDREN.

It shall be unlawful for any child under the age of eighteen (18) years to wander, lounge, loaf, loiter or play in, about, or upon any public street, alley, sidewalk, vacant lot, public place or other place normally accessible to the general public for public use, whether on foot, or in a vehicle or by any means, during the hours of curfew which are hereby specified for each day of each week as provided, to wit:

11:00 p.m. Monday to 6:00 a.m. Tuesday;
11:00 p.m. Tuesday to 6:00 a.m. Wednesday;
11:00 p.m. Wednesday to 6:00 a.m. Thursday;
11:00 p.m. Thursday to 6:00 a.m. Friday;
12:30 a.m. Saturday to 6:00 a.m. Saturday;
12:30 a.m. Sunday to 6:00 a.m. Sunday;
11:00 p.m. Sunday to 6:00 a.m. Monday;

unless accompanied by a parent, legal guardian, or other person exercising legal custody of such child. Such prohibition shall not apply to such children under the age of eighteen (18) years who are en route by the most direct and accessible route between their homes and authorized places of employment, authorized entertainment, or authorized place of attendance to their residences. The term "authorized" as used in this Section shall denote and require prior authorization by a parent, legal guardian, or other person exercising legal custody. (Code 1979, 14-801)

14-802

PARENTS AND OTHERS.

It shall be unlawful for any parent, legal guardian or other person lawfully entitled to the care, custody, or control of any child under the age of eighteen (18) years, to suffer, permit or allow any such child to wander, lounge, loaf, loiter or play in, about or upon any public street, alley sidewalk, vacant lot, public place or other place normally accessible to the general public after the hours specified in Section 14-801 of this Article unless accompanied by a parent, legal guardian or other person legally entitled to the care, custody and control of such child. (Code 1979, 14-802)

14-803

PENALTY.

Any person violating any of the provisions of this Article shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$100 or by imprisonment for a time not to exceed thirty (30) days, or by both such fine and imprisonment. (Code 1979, 14-803)

ARTICLE 9. DRUGS AND DRUG PARAPHERNALIA

14-901

DEFINITIONS.

For the purposes of this Article, the following words and phrases shall be defined as follows: (Ord. 7938)

(A) **Board** means the Kansas Board of Pharmacy.

(B) **Controlled Substance** means any drug, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113 and amendments to these sections.

- (C) **Deliver or delivery** means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (D) **Drug Paraphernalia** means all the equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, K.S.A. 65-4101, *et. seq.*, and amendments thereto. Drug paraphernalia shall include but not be limited to the items listed in K.S.A. 21-5701(f) and its subsections, and amendments thereto.
- (E) **Immediate precursor** means a substance which the board has found to be and by rule and regulation designates as being the principle compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.
- (F) **Isomer** means all enantiomers and diastereomers.
- (G) **Marijuana** means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, or preparation of the plant, its seeds, or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt or derivative mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake of the sterilized seed of the plant which is incapable of germination.
- (H) **Simulated Controlled Substance** means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.
- (I) **Tetrahydrocannabinol** means any material, compound, mixture, or preparation which contains any quantity of the synthetic equivalent of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers, Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers, Delta 3,4 cis or trans tetrahydrocannabinol, and their optical isomers. Compounds of these structures are covered, regardless of numerical designations of atomic positions, as are their salts, isomers, and salts of isomers.

14-902

POSSESSION OF MARIJUANA AND THC.

Except as authorized by the Uniform Controlled Substance Act, K.S.A. 65-4101 *et. seq.*, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control marijuana or tetrahydrocannabinol. (Ord. 7938)

POSSESSION OF DRUG PARAPHERNALIA AND SIMULATED CONTROLLED SUBSTANCES.

- (A) No person shall use or possess with intent to use:
- (1) Any simulated controlled substance.
 - (2) Any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 *et. seq.*, and amendments thereto.
- (B) No person shall deliver, possess with intent to deliver or cause to be delivered any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 21-5706, and amendments thereto.
- (C) In determining whether an object is drug paraphernalia, the finder of fact shall consider, in addition to all other logically relevant factors, the following:
- (1) Statements of the owner or person in control of an object concerning its use.
 - (2) Prior convictions, if any, of an owner or person in control of the object under any state or federal law relating to any controlled substance.
 - (3) The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 *et. seq.* and amendments thereto.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substances on the object.
 - (6) Direct or circumstantial evidence of the intent of an owner or person in control of an object, to deliver it to a person the owner or person in control of an object knows, or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 *et. seq.*, and amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of the Uniform Controlled Substances Act shall not prevent a finding that the object is intended for use as drug paraphernalia.

- (7) Oral or written instructions provided with the object concerning its use.
- (8) Descriptive materials accompanying the object which explain or depict its use.
- (9) National and local advertising concerning the object's use.
- (10) The method and manner in which the object is displayed for sale, if applicable.

14-904

PENALTIES.

(Ord. 7938, Ord. 9257, Ord. 9568)

- (A) Except as provided otherwise in Subsections (1) and (2) hereof, any person convicted of violating any of the provisions of this Article shall be punished by a fine not less than \$200 or greater than \$2500. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than one year.
 - (1) On a first offense for violation of Section 14-902, the convicted person shall be punished by a fine not to exceed \$1000, provided however, that if the convicted person is 18 years of age or older and found to have been in possession of a small quantity of marijuana, as defined herein, there shall be a strong presumption that the court is limited to the assessment of a \$1 fine in addition to all applicable court costs, laboratory fees, and the cost of any evaluation ordered pursuant to this Section. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than 180 days.
 - i. For purposes of this Section, a small quantity of marijuana means the possession of thirty-two (32) grams or less of marijuana.
 - (2) Upon a second conviction of 14-902 of this Article or if the convicted person has a previous conviction of a substantially similar offense under Kansas law or other jurisdiction, the convicted person shall be punished by a fine not less than \$200 or greater than \$2500, provided however, that if the convicted person is 18 years of age or older and found to have been in possession of a small quantity of marijuana, as defined herein, there shall be a strong presumption that the court is limited to the assessment of a \$1 fine in addition to all applicable court costs, laboratory fees, and the cost of any evaluation ordered pursuant to this Section. In addition to such fine, the convicted person may be sentenced to serve a jail term of not more than one year.
 - i. For purposes of this Section, a small quantity of marijuana means the possession of thirty-two (32) grams or less of marijuana.
 - (3) Violation of Section 14-902 of this Article is a misdemeanor, and may be prosecuted in municipal court unless such person has two or more prior convictions for violation of Section 14-902 of this

Article, or for a substantially similar offense under Kansas law or other jurisdiction.

- (B) If the court finds substantial and compelling reasons to do so, the court may suspend all or part of the minimum fine established by this section on such conditions as the court directs. In making the determination regarding whether suspension of all or part of the minimum fine is within the interests of justice, the court shall consider, but is not limited to, the following factors.
1. The financial status of the defendant.
 2. The amount of controlled substance or contraband possessed.
 3. The lack of criminal history of the defendant.
 4. Any drug treatment program voluntarily completed by the defendant before sentencing but subsequent to being charged under this article.
 5. The defendant's level of cooperation with law enforcement including the truthful identification of the source of the controlled substance or contraband possessed by the defendant.
- (C) Any person who is convicted of a second charge alleging a violation of Section 14-902 of this Article may be required by the Court to obtain a drug abuse evaluation. No drug abuse evaluation may be ordered upon a first conviction of Section 14-902 when any such person is 18 years of age or older and has no substantially similar previous conviction from any other jurisdiction. Any person convicted of a violation of any other provision of this Article may be required by the Court to obtain a drug abuse evaluation. Based upon the results of such evaluation, the Court may require the offender to attend and successfully complete a drug abuse education, counseling or treatment program. Any drug abuse evaluation, counseling or treatment ordered under this section for a violation of Section 14-902 of this Article shall be substantially equivalent to the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Brief Counseling for Marijuana Dependence.
- (D) Any person who is diverted on a charge alleging a violation of Section 14-902 of this Article may be required by the prosecutor to obtain a drug abuse evaluation. Any person diverted on a charge alleging a violation of any other provision of this Article may be required by the prosecutor to obtain a drug abuse evaluation. Based upon the results of such evaluation, the offender may be required to attend a drug abuse education, counseling or treatment program as a condition of such diversion agreement. Any drug evaluation, counseling or treatment ordered under this section for a violation of Section 14-902 of this Article shall be substantially equivalent to the United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration's Brief Counseling for Marijuana Dependence
- (E) The municipal judge shall order any person convicted of a charge alleging a violation of Section 14-902 of this Article to pay the laboratory analysis fees specified in K.S.A. 28-176, and amendments thereto, as additional costs in the case provided that forensic laboratory services are rendered or

administered in conjunction with the case. Any diversion agreement for a charge alleging a violation of Section 14-902 shall also contain a provision requiring the defendant to pay such laboratory analysis fees provided that forensic laboratory services are rendered in conjunction with the case.

ARTICLE 10. GRAFFITI

14-1001 **DEFINITIONS.** As used in this Article:

- (A) Director shall mean the Director of Neighborhood Resources, or the Director's designee.
- (B) Property or premises shall mean any lot, parcel, tract, or piece of land, improved or unimproved, in the City, and includes any building or other structure located thereon.
- (C) Graffiti means any writing, printing, marks, signs, symbols, figures, designs, inscriptions or other drawings which are scratched, scrawled, painted, drawn, etched or otherwise placed on any structural component of any building, wall, fence, sidewalk, curb or structure or other facility on public or private property, without the consent of the owner, regardless of the nature of the material used in its application.
- (D) Owner shall mean the person or persons with a legal interest in the property according to the real estate records of the County Clerk, Douglas County, Kansas.
- (E) Public Officer means an employee designated by the City Manager of the City of Lawrence, Kansas for enforcement responsibilities pursuant to this Ordinance.

All other terms and phrases in this Article shall be given their meanings as defined in the General Provisions Article of the Code of the City of Lawrence, Kansas, (Section 1-102) unless the term and phrase would clearly connote a different meaning. (Ord. 6782)

14-1002 **DEFAACEMENT OR DAMAGE OF PROPERTY BY GRAFFITI; MUNICIPAL OFFENSE.**

Any person who writes, prints, marks, sprays, scratches, scrawls, paints, draws, etches or otherwise affixes graffiti upon any property, publicly owned or privately owned, without the consent of the property owner shall be guilty of a municipal offense, and upon conviction thereof, shall be punished by a fine of not less than \$250.00 or more than \$1,000.00, or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. The municipal court judge shall order defendants convicted of a violation of this Section to pay restitution to the property owner in appropriate cases. (Ord. 6782)

14-1003 **GRAFFITI DECLARED A PUBLIC NUISANCE; PROPERTY OWNER'S DUTY TO REMOVE GRAFFITI.**

The existence of graffiti upon any structural component of any building, wall, fence, sidewalk, curb or structure or other facility on public or private property with the City of Lawrence, Kansas is declared to be a public nuisance and it shall be the duty of the property owner with property defaced by graffiti to remove, abate, or cover such graffiti. In cases where the property owner claims that the graffiti was authorized by the property owner, the public officer shall make findings whether the graffiti is a neighborhood blight and public nuisance, and if such blight and nuisance findings

are made, the graffiti shall constitute a public nuisance and it shall be the duty of the property owner to remove, abate, or cover such graffiti. Graffiti shall be subject to abatement and removal by the City as provided by law. (Ord. 6782)

14-1004

NOTICE TO REMOVE GRAFFITI.

Whenever a public officer authorized to enforce this Article finds graffiti on any property within the City of Lawrence, the public officer shall be authorized to cause a Notice to Remove Graffiti to be served upon the owner as provided by this Article. Prior to issuance of a Notice to Remove Graffiti, the public officer shall be authorized to make reasonable attempts to notify the owner through direct communication, telephone or other informal means concerning the graffiti and requirements for graffiti removal. Such communications may include information regarding available resources to property owners to assist in the removal of graffiti, including volunteer assistance, community service assistance, paint supplies, and other resources which may be available.

The notice shall be in substantially the following form:

A Notice to Remove Graffiti

Date of Notice: _____

TO: _____, as owner:

Pursuant to the provisions of 14-1001 et seq., you are hereby notified to remove from _____ (description of property)

Also known as,

(street address)

all graffiti as defined in 14-1001 et seq. within fourteen (14) days from the date of this notice.

If all graffiti is not permanently removed from the above described property within fourteen (14) days from the date of this notice, the City will cause it to be removed and the charges for removal shall become a personal obligation and a lien upon your property. If you intend to remove such graffiti yourself, you are required to obtain from the City a certificate stating that the graffiti has been adequately removed; otherwise if the removal is not adequate, the graffiti will be removed and the charges for removal shall become a personal obligation and a lien upon your property.

If you object to the removal of the graffiti from your premises, you may appeal to the City Clerk by filing a written notice of appeal in the Office of the City Clerk, City Hall, 6 E. 6th Street, Lawrence, Kansas. Such written notice must be filed within ten (10) days from the date of this notice. Failure to appeal shall be construed as your acceptance of the determination of the City of Lawrence and any all remedies provided by the Code of the City of Lawrence, Kansas.

The public officer shall enforce the provisions of this ordinance pursuant to the provisions of the Notice to Remove Graffiti in substantially the manner as presented in the above form.
(Ord. 6782)

14-1005

NOTICE; SERVICE ON PROPERTY OWNER.

The notice to remove graffiti shall be served upon the owner of the property with graffiti. Such service may be made either by personal delivery or by depositing the notice in the United States mail, postage prepaid, as certified, first class, return receipt requested, addressed to the owner at the last known address. In cases where the owner is unknown or is a non-resident, and there is no resident agent, the notice shall be published by the City in the official City paper. The official date of the notice for published notices shall be the date of publication. (Ord. 6782)

14-1006

HEARING PROCEDURES.

Upon receipt of a notice of appeal, the City Clerk shall transmit a copy of the notice of appeal to the Neighborhood Resources Department. The Director shall schedule a hearing on the appeal within ten (10) days of the City Clerk's receipt of the notice of appeal. The Director shall receive all relevant testimony, written communications, and such other relevant evidence concerning the appeal and the Notice to Remove Graffiti. The hearing may be continued from time to time with appropriate notice to the appellant.

Upon the conclusion of the hearing, the Director shall make an appropriate Order in the matter of the appeal, including whether a public nuisance as declared by Section 14-1003 exists on the subject property. If the Director finds that a public nuisance exists, an Order shall be made concerning how the nuisance is to be removed and shall establish a time, not to exceed fourteen (14) days to remove the nuisance. In the event the owner fails to remove the graffiti determined to be a nuisance pursuant to the Order, the City shall cause the graffiti to be removed and the cost incurred by the City shall be a personal obligation of the owner and a lien upon the property. (Ord.6782)

14-1007

CITY AUTHORITY TO REMOVE GRAFFITI; MUNICIPAL OFFENSE.

- (A) If any owner, after the notice requirements of 14-1006 have been completed, fails to remove the graffiti from such owner's property within the time stated in the notice, or the Order of the Director, the owner shall be deemed to have consented to such removal by the City. Failure to remove the graffiti shall include the failure to obtain a certificate from the public officer that the graffiti has been removed in an acceptable manner. The public officer of the City, or the officer's agent, shall be authorized to enter upon property involved and remove the graffiti.
- (B) Any property owner who fails to remove graffiti pursuant to the Notice to Remove Graffiti shall be guilty of a municipal offense, and upon conviction thereof, shall be punished by a fine of not less than \$250.00 or more than \$1,000.00, or by imprisonment for not more than six (6) months, or by both such fine and imprisonment. The adjudication of the municipal offense shall be supplemental and in addition to the provisions of this ordinance providing for the abatement and the assessment of costs for the removal of graffiti.
- (C) The Director, or designee, shall have authority to issue a Notice to Appear pursuant to the provisions of Charter Ordinance No. 31, for violations of provisions of this ordinance. (Ord. 6782)

14-1008

ASSESSMENT OF COSTS FOR REMOVAL; NOTICE TO PAY EXPENSES.

After the removal of the graffiti from the property by the City or the City's agent, the public officer shall compute all expenses incurred by the City in the removal, including a \$25.00 administrative fee. All expenses shall be charged to and become an indebtedness of the owner of the property where the graffiti was removed. The

public officer shall serve a notice of expenses upon the owner of the property where the graffiti was removed. The Notice to Pay Expenses for Graffiti Removal shall be in substantially the following form:

A Notice to Pay Expenses for Graffiti Removal

Date of Notice: _____

Pursuant to 14-1001 et seq., the City of Lawrence, Kansas has caused the removal of graffiti on _____

_____ also known as _____

_____(street address)

to be removed. You are hereby notified that the total cost of \$ _____, including a \$25.00 administrative fee, is now due and payable to the City of Lawrence, Kansas. You are further notified that you may demand a hearing within ten (10) days of the date of this notice before the Director of Neighborhood Resources or his or her designee. Such written demand shall be presented to the City Clerk, 6 E. 6th Street, Lawrence, Kansas, 66044, and shall describe the property involved, the reasons for objecting, and the name, address, and interest of the appellant. If no hearing is demanded, this payment shall become delinquent if not paid within thirty (30) days from the date of this notice. If payment is not received within thirty (30) days, the City Clerk shall certify to the County Clerk the amount due and owing to the City as an assessment against the property, pursuant to applicable laws. (Ord. 6782)

14-1009

HEARING ON OBJECTION TO NOTICE TO PAY.

If the property owner files with the City Clerk a written objection to the Notice to Pay within ten (10) days of the date of the Notice, the Director shall schedule a hearing on the appeal within ten (10) days of the City Clerk's receipt of the notice of appeal. The Director shall receive all relevant testimony, written communications, and such other relevant evidence concerning the appeal and the Notice to Pay Expenses for Graffiti Removal. The hearing may be continued from time to time with appropriate notice to the appellant. Upon the conclusion of the hearing, the Director shall make an appropriate Order in the matter of the appeal, including the amount, if any, of the expenses to be due and owing the City for the removal of the graffiti. (Ord. 6782)

ARTICLE 11: DISORDERLY HOUSE NUISANCE

14-1101

GENERAL DEFINITIONS.

For the purpose of this Article, the following definitions shall apply: (Ord. 7223, Ord. 7962)

- (A) Dwelling means a house, duplex, condominium unit, apartment building, mobile home, manufactured home, trailer or any other structure(s) or place(s) used or intended to be used for human habitation, including common areas within a structure when buildings or structures are used for more than one (1) dwelling, and accessory areas such as garages located on the same premises.

- (B) In or on the premises of any Dwelling means either within a dwelling or the area within the boundary lines of any real property of the same ownership on which such dwelling is located.
- (C) Occupant means any person who lives in or has possession of or holds an occupancy interest in a dwelling; or any person residing in or frequenting the premises of the dwelling with the actual or implied permission of the Owner or lessee.
- (D) Owner means any person, agent, operator, firm or corporation having a legal or equitable interest in the Dwelling; or recorded in the official records of the State of Kansas, Douglas County, or the City of Lawrence as holding title to the Dwelling; or otherwise having control of the Dwelling, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of such property by a court.
- (E) Triggering Event means any of the following:
1. An act or failure to act that would constitute a felony or misdemeanor codified in the laws of the State of Kansas in Chapters 21, 41 or 65 of the Kansas Statutes Annotated; or
 2. Conviction or diversion of an individual on a felony or misdemeanor charge defined in Chapters 21, 41 or 65 of the Kansas Statutes Annotated; or
 3. Any act or failure to act punishable by the imposition of fines and/or jail time under the ordinances of the City of Lawrence, except for previous violations of this article, ordinance traffic infractions, violations of the Standard Traffic Ordinance, and tobacco infractions as those terms are defined by Kansas Statute; or
 4. Conviction or diversion of an individual on any charge under the ordinances of the City of Lawrence punishable by the imposition of fines and/or jail time, except for previous violations of this article, ordinance traffic infractions, violations of the Standard Traffic Ordinance, and tobacco infractions as those terms are defined by Kansas Statute.

Except that:

1. When an act or failure to act by an individual would constitute a triggering event under this section and the same individual has been convicted or diverted on a charge arising from that act or failure to act, then both the act or failure to act and the conviction or diversion shall constitute a single triggering event; and
2. No individual's own conviction or diversion shall constitute a triggering event under this section for the purposes of a concurrent or subsequent prosecution of that individual under this article; and
3. No individual's own act or failure to act that would otherwise constitute a triggering event under this section shall constitute a triggering event against that individual if the individual has been or may

be subject to prosecution for that act or failure to act.

14-1102

DISORDERLY HOUSE NUISANCE DEFINED.

(Ord. 7223, Ord. 7962)

A Dwelling is a *“Disorderly House Nuisance”* when it is associated with:

- (A) Two (2) or more triggering events arising out of separate and distinct facts and circumstances within any consecutive three hundred sixty-five (365) day period; or
- (B) Three (3) or more triggering events by separate individuals arising from the same general facts and circumstances.

A Dwelling is associated with a triggering event when the triggering event has occurred within or on the premises of that Dwelling, or, if the triggering event consists of a conviction or diversion agreement on a criminal charge, a Dwelling is associated with that event when one or more acts that constitute the elements of the criminal offense occurred within or on the premises of the Dwelling.

14-1103

VIOLATION.

- (A) No owner or occupant of any Dwelling shall allow or permit such Dwelling to be, or become, a Disorderly House Nuisance. (Ord. 7223)
- (B) An owner and/or occupant, as the case may be, shall be deemed to have allowed or permitted a Dwelling to be, or become, a Disorderly House Nuisance, if: (Ord. 7223)
 - (1) The owner or occupant has personally committed the acts set forth in Section 14-1102; or
 - (2) Such acts were committed by invitees of the occupant or owner; or
 - (3) Such acts were committed by persons attending events, or functions, sponsored, permitted or allowed by the occupant or owner; or
 - (4) Such acts were committed by a combination of subsections 1, 2 or 3; or
 - (5) The owner or occupant has been provided with the written notice of a Disorderly House Nuisance pursuant to Section 14-1104, below, the facts alleged therein are true, and the owner or occupant fails or refuses to enter into a Nuisance Abatement Agreement, or after entering into such Agreement, fails to comply with its terms.

14-1104

WRITTEN NOTICE OF DISORDERLY HOUSE NUISANCE.

No person shall be prosecuted for a violation of Section 14-1102 until the Director of Legal Services for the City of Lawrence, Kansas, or his or her designee, shall serve such person with the notice provided herein, and the person has either failed, or refused, to enter into the Nuisance Abatement Agreement, provided for hereinafter, or after entering into such Agreement, the person fails to comply with its provisions. Such Notice may be served on any person by personal service, or in the case of an occupant, by restricted mail addressed to the address of the Dwelling, or, in the

case of a Non-Occupant Owner, by restricted mail to his or her last known address, or, if none, to the address to which any *ad valorem* property tax statement is provided to such owner for the Dwelling. Such notice shall contain, at a minimum, the following: (Ord. 7223)

- (A) That a Disorderly House Nuisance exists, as defined by Section 14-1102, at the location specified in the notice.
- (B) The date of the commission of the acts which constitute the basis for the Disorderly House Nuisance, the name(s) of the person(s) committing such acts, if known, and all other facts and circumstances that the City relies upon to allege that such acts form the basis for the Disorderly House Nuisance.
- (C) The date, time and place where the person is to appear, and meet with the Director of Legal Services or his or her designee, to participate in the Nuisance Abatement Conference.
- (D) That failure to appear, or failure to make satisfactory arrangements for an alternative date and time, at the time and place designated in the notice may result in prosecution of a violation of Section 14-1102 and the imposition of penalties, as prescribed by this Code.

14-1105

NUISANCE ABATEMENT CONFERENCE.

At the nuisance abatement conference, the Director of Legal Services or his or her designee, and the owner or their designee and/or occupant or their designee, shall discuss the facts constituting the Disorderly House Nuisance and shall attempt to agree on specific actions that the owner and/or occupant can take to abate said Disorderly House Nuisance. (Ord. 7223)

14-1106

NUISANCE ABATEMENT AGREEMENT.

- (A) At the conclusion of the nuisance abatement conference, the Director of Legal Services or his or her designee shall submit to the owner and/or occupant a proposed written nuisance abatement agreement. If at the conclusion of the conference, the Director of Legal Services or his or her designee needs more time to draft said proposed agreement, then a follow up meeting shall be scheduled with the owner and/or occupant, within ten (10) days of the initial conference for submittal and review of the completed proposed nuisance abatement agreement. (Ord. 7223)
- (B) Any nuisance abatement agreement under this Article shall include a list of specific actions and specific schedule of deadlines for said actions to abate the Disorderly House Nuisance. It may also include provisions for a periodic reassessment of the agreement effectiveness, and the procedure for a modification of the agreement. A nuisance abatement agreement or any written modification to said agreement may impose conditions or requirements on the owner and/or occupant for a period of twenty-four (24) months from the date the original agreement is entered into by the owner and/or occupant and the City. A nuisance abatement agreement may impose one or more of the following conditions or requirements on the owner and/or occupant: (Ord. 7223)
 - (1) Eviction of identified individuals from the dwelling in question,
 - (2) Written notification from the owner and/or occupant to an identified

individual or individuals that they are prohibited from entering onto the Premises of the Dwelling,

- (3) Utilization of written leases containing a provision or provisions requiring eviction for criminal activity,
 - (4) The completion of improvements upon the Premises of the Dwelling which have the impact of mitigating crime, including but not limited to the erection of fences, installation of security devices upon the entrances or increased lighting,
 - (5) Any other reasonable condition or requirement designated to abate the Disorderly House Nuisance.
- (C) Once a proposed written nuisance abatement agreement or written modification to nuisance abatement agreement has been submitted to the owner and/or occupant, said owner and/or occupant shall have forty-eight (48) hours to review it and enter into said agreement by signing it and returning it to the Director of Legal Services or his or her designee. (Ord. 7223)

14-1107

COMMENCEMENT OF PROSECUTION.

The City may only commence prosecution against an owner or occupant alleging a violation of this Article if: (Ord. 7223, Ord. 7962)

- (A) That owner or occupant does not attend a nuisance abatement conference within the time period described previously; or
- (B) That owner or occupant fails or refuses to sign a proposed written nuisance abatement agreement or proposed written modification to said agreement within the prescribed time set forth in this article; or
- (C) That owner or occupant fails or refuses to comply with any conditions or requirements set forth in a nuisance abatement agreement that he or she has signed, including any prescribed deadlines for taking particular actions.

Prosecution pursuant to this section need not be delayed pending the resolution of any other criminal prosecution against any party resulting from the occurrence of the triggering events, and this matter should be determined independently of any such pending prosecution, unless required by compulsory joinder or other legal considerations.

14-1108

ACTION TO ABATE; EQUITABLE RELIEF; TERMINATION OF UTILITY SERVICES.

- (A) In addition to prosecution of the offense defined in this Article or pursuing any other remedies available under this Code, the City upon receipt of reliable information that any Dwelling within the corporate limits of the City is being maintained as a Disorderly House Nuisance may prosecute an action for equitable relief, the name of the City, to abate the nuisance and to enjoin any person who shall own, rent, or occupy the Dwelling in question from using or permitting its use in violation of the provisions of this ordinance. (Ord. 7223)
- (B) In addition to prosecution of the offense defined in this Article, and notwithstanding the pendency of prosecution or other legal matters pending

on a specified property, the Director of Legal Services, or his or her designee, may order, after lawful notice and opportunity for hearing, the termination of utility services to the property in question, upon a finding of the Director of Legal Services, or his or her designee, that the human occupancy and habitation of the property will allow for the unabated continuance of the disorderly house nuisance as defined by this Article and that the lawful termination of utility services, including but not limited to water, sanitary sewer, sanitation, electricity, natural gas, shall cease, reduce or mitigate the use of such property as a disorderly house nuisance. The termination of utility services shall occur concurrently with the posting of the property as unfit for human occupancy and habitation. (Ord. 7223)

14-1109

JUDGMENT.

No judgment finding a violation of this ordinance shall be entered against an owner and/or occupant who has, in good faith, endeavored to prevent the nuisance. Any owner and/or occupant who has complied with all conditions or requirements of a nuisance abatement agreement and any modifications to said agreement, as defined by the ordinance, shall be deemed to have endeavored in good faith to prevent the nuisance. (Ord. 7223)

14-1110

PENALTIES.

Upon conviction for a violation of this Article the offender shall be punished by a fine not to exceed \$1000 or a jail sentence not to exceed 180 days, or both such fine and jail sentence. In determining an appropriate fine amount, the Court shall consider the cost of the police response to the triggering events and shall assess a fine proportionate to the cost of that response. (Ord. 7223, Ord. 7962)

If the Court grants probation from any jail sentence imposed pursuant to this section, such probation may be conditioned on any or all of the following:

- (A) The completion of improvements upon the premises of the Dwelling which have the impact of mitigating crime and criminal activity, including but not limited to the erection of fences, installation of security devices and increased lighting; and
- (B) Requirement of a written lease for occupants which includes provisions requiring eviction for criminal activity; and
- (C) Submitting a tenancy list to the Police Department; and
- (D) Posting a cash bond in an amount no greater than the maximum fine and costs of the case for the period of court supervision or conditional discharge imposed by the Court. Such bond shall be retained by the Court in an interest bearing account and conditioned on successful completion of the period of court supervision or conditional discharge; and
- (E) Any other condition reasonably related to the objective of abating the Disorderly House Nuisance.